IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 20TH AUGUST 2007 / 29TH SRAVANA 1929

Bail Appl..No. 5035 of 2007()

[CRIME NO.239/07 OF POOYAPPALLY POLICE STATION]

PETITIONER/ACCUSED

NAUSHAD,S/O. ABDULRAHMAN,
KODIVILA VEEDU,
VATTAPPARA, KARINGANNOOR,
CHERIYAVELINALLOOR P.O.,
KOTTARAKKARA.

BY ADV. SRI.ALEXANDER GEORGE

RESPONDENTS: COMPLAINANT

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1. STATE OF KERALA REPRESENTED BY ITS
PUBLIC PROSECUTOR,HIGH COURT OF KERALA,
ERNAKULAM.

2. THE SUB INSPECTOR OF POLICE
POOYAPPALLY POLICE STATION,
KOLLAM DISTRICT.

BY PUBLIC PROSECUTOR SRI.JAI GEORGE

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 20/08/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J.

B.A.No.5035 of 2007

Dated this the 20th day of August 2007

O R D E R

Application for anticipatory bail. The petitioner, the husband of the de facto complainant, faces allegations under Section 498A I.P.C. The marriage took place on 14/11/1993. The spouses are blessed with a child aged 11 years now. Crime was registered on the basis of a private complaint which was referred by the learned Magistrate to the police under Section 156(3) Cr.P.C. Investigation is in progress. The petitioner apprehends imminent arrest.

2. The learned counsel for the petitioner prays, the learned Public Prosecutor does not oppose the said prayer and I am satisfied that anticipatory bail can be granted to the petitioner. In coming to this conclusion, I take note of the fact that there is strain in the matrimony which has remained for the past about 14 years in which a child aged about 11 years has been born. The learned Public Prosecutor further submits that there is no allegation of any physical cruelty which has resulted in any injury for the victim. Subject to appropriate conditions,

anticipatory bail can be granted, I am satisfied. In coming to this conclusion, the reality that if the petitioner were arrested and kept in custody, that would close the doors of any possibility/chance of harmonious reconciliation of disputes does weigh with me.

3. In the result, this petition is allowed. Following directions are issued under Section 438 Cr.P.C in favour of the petitioner.

i) Petitioner shall surrender before the learned Magistrate having jurisdiction at 11 a.m on 30/8/2007.

ii) He shall be released on regular bail on condition that he executes a bond for Rs.25,000/-(Rupees twenty five thousand only) with two solvent sureties each for the like sum to the satisfaction of the learned Magistrate.

iii) The petitioner shall make himself available for interrogation before the investigating officer between 10 a.m and 3 p.m on 31/08/2007 and 01/09/2007 and thereafter on all Mondays and Fridays between 10 a.m and 12 noon for a period of two months and subsequently as and when directed by the investigating officer in writing to do so.

(iv) If the petitioner does not appear before the learned Magistrate as directed in clause (i), directions issued above shall thereafter stand revoked and the police shall be at liberty to arrest the petitioner and deal with him in accordance with law, as if these directions were not issued at all.

(v) If he were arrested prior to 30/08/2007, he shall be released from custody on his executing a bond for Rs.25,000/- (Rupees twenty five thousand only) without any sureties, undertaking to appear before the learned Magistrate on 30/08/2007.

(R.BASANT, JUDGE)

jsr

// True Copy// PA to Judge

R.BASANT, J.

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007